REMARKS

Claims 1-32 are currently pending within this application. No claims have been amended, canceled, or added.

The Office has retained its rejections Claims 1-22 under 35 U.S.C. § 103(a) as being unpatentable over WO 93/23007 (hereinafter, "Pryor") as well over Dromard in view of Pryor. Furthermore, the Office has used the same basic reasoning to reject the pending claims on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-33 of U.S. Pat. No. 6,946,119 in view of Pryor. Applicants were mistaken with the previous assertion that a Terminal Disclaimer had been submitted. In view of the untenable nature of the basis of this rejection, Applicants have decided to reply to all such pending rejections in kind as they all rest on the same improper arguments set forth by the Office.

Most notably, it is imperative to point out that the Pryor reference fails to provide any actual example of a precipitated silica. Each example, and thus all specific descriptions and showings of the effect of dehydroxylating any silica products at all, are limited in specificity to silica gels. This is a significant issue that the Office has merely glossed over in equating precipitated silicas and gels simply because the patentee (Pryor) deemed that such materials are equivalent. There is but a passing reference to the possibility of increasing flavor, etc., compatibility for precipitated silica products through dehydroxylation. Such a statement, however, is not buttressed by any exemplification of such a phenomenon. It is that lack of evidence that Dr. Gallis addressed in his previously submitted Rule 132 affidavit. The Office has decided, however, that this evidence is lacking to any degree to show nonobviousness of the pending claims in view of Pryor at all, and merely because there are no bright-line trends in the compatibility levels of the three precipitated silica abrasive samples tested. Each were properly treated in accordance with the teachings of Pryor (albeit, Pryor is, again, and this cannot be taken as lightly as the Office has done up to this time, limited in its scope, example-wise, to silica gels) in order to dehydroxylate the silica materials to the same degree as within this patent. Dr. Gallis followed such instructions and then analyzed the final products. Such results clearly indicated that dehydroxylation will not produce the same effect for precipitated silicas as they do for silica gels, particularly for abrasive precipitated silicas. At the very least, Dr. Gallis clearly showed that the degree of CPC compatibility would not change to any significant degree, and, at least, nowhere close to the level required of the present claims. That was the basis on which his affidavit was made.

It should be evident that differences in degree of change in precipitated silicas will occur, depending on the structure of the starting materials themselves. However, the gist of Applicants' position is that the degree of change for a silica gel, as specifically exemplified within the Pryor reference, will never be the same and will far outdistance that for precipitated silicas when subjected to the same dehydroxylation procedures. The surface chemistries of silica gels and precipitated silicas are significantly different. One of ordinary skill in the art would know that such is the case, particularly within the abrasive silica industry. And, of greater importance, such a person would clearly understand that if a silica gel exhibits enormous change in the manner indicated by Pryor upon dehydroxylation, and typical precipitated silicas do not exhibit the same results thereof, then such an ordinarily skilled artisan would not properly rely on a reference directed to silica gels as the basis for determining a course of action for the modification of precipitated silicas. The showings of Dr. Gallis thus significantly show that the variables of pore size and CPC compatibility (as required to the levels within the pending claims) are not intertwined with silica gel modification levels. The Office has basically deemed that because Pryor shows that dehydroxylation of any silica material provides small pore sizes and high compatibility levels, then any dehydroxylation method will do the same for any silica material. All Dr. Gallis was trying to show was that Pryor's methods will not provide such results for typical abrasive precipitated silicas. Because there is such a huge discrepancy between the compatibility levels shown by Pryor's dehydroxylated silica gels and such typical dehydroxylated precipitated silicas, it is evident that the undertaking of such a method will not provide the same variable change for all precipitated silica products. Thus, the utilization of Pryor as the basis for obviousness is improper. With sufficient doubt as to the applicability of such a reference over a substantially different type of silica product, one of ordinary skill within the precipitated silica art would not rely upon such a reference to provide improvements of CPC compatibility for precipitated silicas, clearly. As such, the continued reliance by the Office on the Pryor reference (which is required as a reference in all three rejections noted above) is, particularly in view of the proper showings by Dr. Gallis, improper hindsight reconstruction of Applicants' own teachings. Reconsideration and withdrawal of these rejections are thus respectfully requested.

CONCLUSION

In view of the amendments and remarks supplied above, it is respectfully submitted that the present claims of this application are now in condition for allowance and that this case be passed on to issue.

Respectfully submitted,

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CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as "Express Mail" Identification number EB166392407US in an envelope addressed to Mail Stop RCE, The Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 22, 2007, along with the **(1) Request for Continued Examination; (2) an amendment accompanying said RCE; (3) a petition for 1 month extension of time; and (4) a Post Card Receipt.**

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